



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable A. C. Winbern
District Attorney
Houston, Texas

Dear Sir:

Opinion No. O-6026

Re: Is an alien with a poll tax,
paid before Jan. 31, 1944,
and naturalized in April,
1944, now entitled to vote?
And a related question.

This will acknowledge receipt of your letter,
dated May 16, which reads, in part, as follows:

"An alien, who has resided in the State
and County in excess of one year, purchased
a poll tax before the 31st day of January, 1944,
which poll tax was stamped 'Alien' as required
by Statute. In the month of April, 1944, the
alien was naturalized and became a citizen of
the United States. Is he now entitled to vote
under the laws of the State of Texas, and, if
so, is there any method of amending or correct-
ing his poll tax receipt in order to show the
same to be a voting poll tax?"

Sections 1 and 2 of Article 6, Vernon's Annotated
Texas Constitution, respectively provide:

"Section 1

"The following classes of persons shall
not be allowed to vote in this State, to-wit:

"First: Persons under twenty-one (21)
years of age.

"Second: Idiots and lunatics.

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"Third: All paupers supported by any county.

"Fourth: All persons convicted of any felony, subject to such exceptions as the Legislature may make.

"Fifth: All soldiers, marines and seamen, employed in the service of the Army or Navy of the United States. Provided that this restriction shall not apply to officers of the National Guard of Texas, the National Guard Reserve, the Officers Reserve Corps of the United States, nor to enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, nor to retired officers of the United States Army, Navy, and Marine Corps, and retired officers of the United States Army, Navy, and Marine Corps, and retired warrant officers and retired enlisted men of the United States Army, Navy, and Marine Corps.

"Sec. 2. Every person subject to none of the foregoing disqualifications, who shall have attained the age of twenty-one years and who shall be a citizen of the United States and who shall have resided in this State one year next preceding an election and the last six months within the district or county in which such person offers to vote, shall be deemed a qualified elector; provided, that electors living in any unorganized county may vote at any election precinct in the county to which such county is attached for judicial purposes; and provided further, that any voter who is subject to pay a poll tax under the laws of the State of Texas shall have paid said tax before offering to vote at any election in this State and hold a receipt showing that said poll tax was paid before the first day of February next preceding such election.

....."

Articles 198, Vernon's Annotated Penal Code, and 2975, Vernon's Annotated Civil Statutes, respectively provide:

"Article 198.

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"Any collector of taxes, or any one in his employ, who wilfully fails or refuses to transcribe correctly from the original poll tax receipt or certificate of exemption and insert in the duplicate retained in the collector's office the name and other description of the citizen required by law to be given by him, or who fails to transcribe correctly from the duplicate kept in the collector's office and insert in the list of qualified voters of a precinct the name and description of the citizen as contained in said duplicate, or who issues a poll tax receipt after the first day of February in any year, bearing a date prior to the first day of February, or who wilfully fails to keep said original duplicate securely locked up when the same are not being used, or permits them to be mutilated, defaced, lost or destroyed, or who conceals, alters or destroys them, shall be fined not less than one hundred nor more than five hundred dollars."

"Art. 2975

"

"At the time the Tax Collector makes up his lists of voters as herein provided, he shall at the same time on a separate list make up a list of alien poll taxpayers and shall mark at the top of said list the words 'Alien Poll Taxpayers,' and such list shall be delivered at the same time and the same manner and to the same officials as hereinabove provided for other poll tax lists, and the lists of qualified voters in said county and in the various precincts of said county. Such certified lists of qualified voters and lists of alien taxpayers shall be in the following form:

"

And the same form shall be used with reference to the list of alien taxpayers furnished the officials as provided in this Article."

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With regard to citizenship, you will observe that by the wording and provision of Section 2 of Article 6, supra, a person who is a citizen at the time of election is a qualified voter, assuming he meets all other requirements.

In the facts you present the alien has been naturalized since January 31, 1944. It follows, in answer to your first question that he is now entitled to vote, although his poll tax receipt, paid before January 31, 1944, be stamped "Alien".

In answer to your second question, it is our opinion that a list of voters or a poll tax receipt made out pursuant to law can be changed or altered only in some way or by some method provided by law. To hold otherwise would tend to introduce too great an element of uncertainty and might at times afford too great an opportunity for fraud and imposition. You will observe that Article 198, supra, makes it unlawful to alter poll tax receipts and provides a penalty therefor and also for one "who issues a poll tax receipt after the first day of February in any year, bearing a date prior to the first day of February".

Further it is our opinion that there is no statutory authorization to amend or correct the list of voters or the "Alien" poll tax receipt or to issue a new "voting" receipt. We answer your second question in the negative.

However, he need only convince the election judge that he is now a citizen to vote. A presentation of his naturalization papers, or a certified copy thereof, or an affidavit that he is at the time of election a citizen, having been naturalized, or anything that would convince the election judge that his previous disqualification has been removed will suffice to permit his voting.

Trusting this satisfactorily answers your inquiry,
we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Fred C. Chandler*
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By *Elton M. Hyder, Jr.*
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